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# The Subcontract Chain, Migrant Workers and Health and Safety

Ian Fitzgerald  
Faculty of Business and Law

# Subcontracting, migrant workers and occupational safety and health



**1 in 33** of **US** are migrants (Rom. and Slovakia) (IOM, 2012);

Evolving integration and enlargement of **single market**, greater movement of capital and labour, subcontracting chains increasingly involve companies from differing Member States:

**Temporary work agencies** (Dutch labour inspectorate - 3 times higher risk; German sickness fund higher muscular and skeletal injuries; UK Irwin Mitchell report cases not going to court (Cremers, 2009, Fitzgerald, 2010);

**Undeclared/illegal** (migrant) labour;

**Self-employed/Bogus self-employed;**

**Principal contractor and subcontractors** in chain argue that all those on site are self-employed.



# Subcontracting, migrant workers and occupational safety and health



**The New Reality?** In 2007 Commission launched programme to reduce administrative burdens, opinion on policy working areas:

**Allow derogation** from an obligation to draft a health and safety **plan** and a **file** for low risk sites;

Exempt **very small firms** with low risk activities from having to produce a written risk assessment;

Have distinction between **risk levels for differing Firm sizes**, so smaller the firm lower the risk (Gehring 2010).

***“Employment security ... made way for maximum flexibility... self-employment, genuine or bogus, forms a substantial part of the workforce pattern. Worker representation is weak and the prospect of a bottom-up safety culture being successful in the near future is unlikely”*** (Donaghy, 2009: 11)



# Migrant workers and occupational safety and health - Movement

The UK is one of the **most open** Member States for the provision of cross-border services;



Migrant workers **more likely** to be working in sectors, such as construction, with a heightened health and safety risk;



**Over 90%** of UK construction firms have less than 10 employees with over a third 'one man bands' ;

**Fragmentation** of construction sector (fragmented enforcement of agreements) **Compliance** with occupational health and safety regulations a significant cost: There is a **negative impact on competitiveness**.



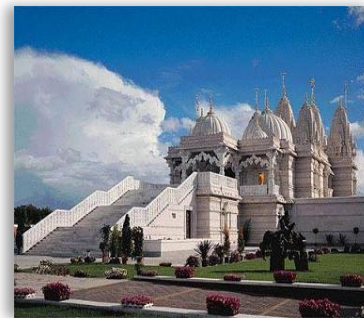
# Migrant workers and occupational safety and health - Conditions



In UK in **2007-2008** almost a fifth of construction fatalities were migrant workers. Overall a **fourfold** rise in migrant worker fatalities since the 2004 accession;

Dept. of Social Affairs and Employment in the **Netherlands** reported that 13 % of accidents victims were foreign nationals (2007-2009). A striking result was that almost half of the foreign victims were temporary workers;

According to the **Labour Inspectorate**, inspections have pointed out that the bad working conditions of foreign nationals are more related to the mere fact that they are temporary workers, rather than to the sectors they work in.

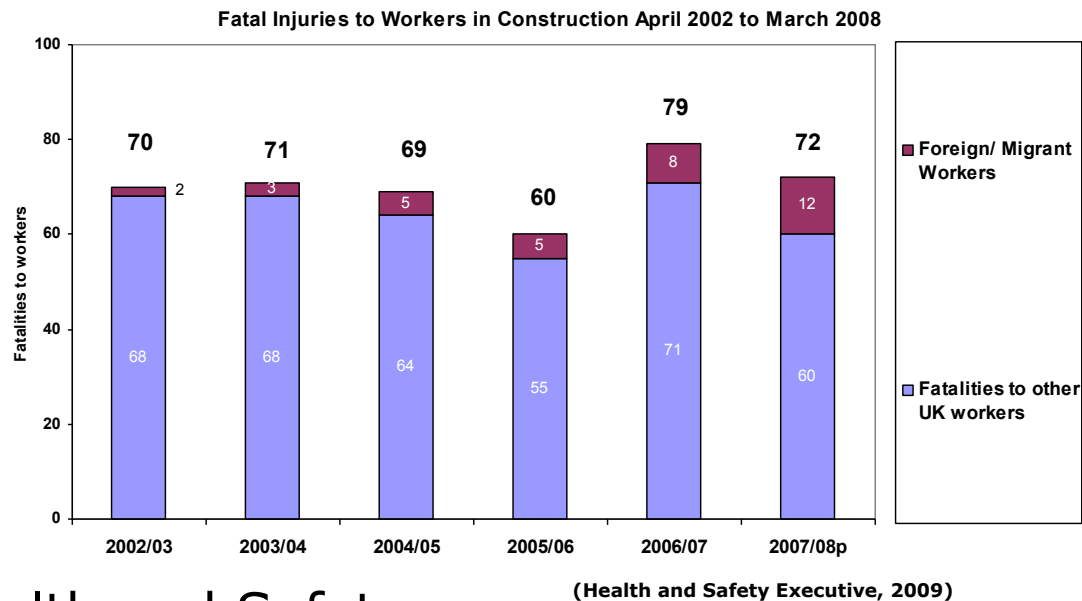


# Migrant workers and occupational safety and health – UK Reality



In **2005/6**, **55%** of migrant fatalities were in construction - by **2006/7** this increased to **62%** - then **2007/8**, this increased to **66%**;

Many cases are not prosecuted. In 15 cases where CCA were able to obtain information, 9 families (**60%**) did not have legal representation;



Common for Health and Safety Executive **NOT** to issue a press release following prosecution convictions.



# Migrant workers and occupational safety and health – Why?

1. Relatively **short periods** of work in the host county;



2. Motivations coming to host county, particularly where based on **earning as much as possible**, in the shortest possible time;

3. **Ability to communicate** effectively with other workers and supervisors, particularly with regard to risk;

4. Access to **limited health and safety training** and difficulties in **understanding** what is being offered, where proficiency in **host language** is limited;

5. **Failure of employers** to check on work and language skills (competence issues, authenticated certificates of training).



“A potential death trap”  
HSE Inspector





# Migrant workers and occupational safety and health – Main reasons

6. Different experiences of **health and safety regimes** in migrants' countries of origin;
7. **Limited knowledge** of host country health and safety system;
8. **Lack of knowledge** of health and safety **rights** and how to raise them, including **knowledge of the channels** through which they can be represented;
9. **Employment relationships** and unclear responsibilities for health and safety, in particular where workers are supplied by **recruitment agencies** or **labour providers** or are **self-employed**.



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